

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHRISTINE JU,

Plaintiff,

O R D E R

- against -

20 Civ. 29 (NRB)

MICHAEL CAPURSO

Defendant.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

WHEREAS on December 2, 2020, the Court held a conference via telephone to address defendant's Rule 2(b) letter seeking leave to move for summary judgment on the grounds that plaintiff did not sustain a "serious injury" within the meaning of New York Insurance Law § 5102(d);

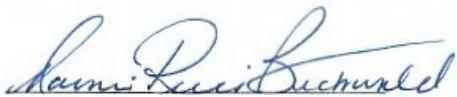
WHEREAS at the conference, the Court invited both parties to provide case law on whether plaintiff's alleged five-degree limitation of motion to her cervical spine was sufficient to meet the "serious injury" standard of § 5102(d);

WHEREAS defendant has submitted case authority to support the proposition that plaintiff has not sustained a "serious injury" under § 5102(d), and plaintiff has not submitted any authority to the contrary; and

WHEREAS based on the record before the Court, it is not clear that plaintiff can proceed with this litigation consistent with Fed. R. Civ. P. 11; it is hereby

ORDERED that defendant is granted leave to file a motion for summary judgment.

Dated: New York, New York
January 20, 2021



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE